

REMARKS

The examiner has rejected claims 1 and 25 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application as filed, had possession of the claimed invention. More particularly, the examiner argues that the newly added limitation "substantial" with respect to the fibrinogen binding activity lacks descriptive support in the specification and therefore the examiner urges that this new limitation constitutes new matter. Applicant most respectfully disagrees with the examiner on this point. In this regard it is to be noted that the specification, at table 2, clearly shows the fibrinogen binding activity of the protein being claimed and, clearly, one skilled in the art would appreciate that this binding is indeed substantial. However, in view of the examiner's rejection of these same claims under 35 U.S.C. § 112, second paragraph, as being indefinite due to alleged indefiniteness associated with the term "substantial", application has deleted this limitation from claim 1 so that claim 1 now more broadly covers the protein having fibrinogen binding activity.

The examiner has also included claim 25 in the rejection under 35 U.S.C. § 112, second paragraph, on the grounds that claim 25 lacks proper antecedent support for the recitation "a protein according to claim 1". The examiner suggests that for proper antecedent basis, applicant should replace the above quoted recitation with "the protein according to claim 1". Accordingly, claim 25 has been amended in accordance with the examiner's suggestion.

It is to be noted that no other rejections remain in this application. Accordingly, claims 1 and 25 are clearly in condition for allowance. In addition, it is also to be noted that claims 2-24 and 26-29 remain as being withdrawn from consideration due

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to the previous restriction requirement. In this regard it will be recalled that the examiner has maintained the restriction requirement on the basis that the technical feature linking the inventions of groups I-XI does not constitute a special technical feature as defined by PCT rule 13.2 because this technical feature does not define a contribution over the prior art. While there may have been some basis for this in the previous office actions wherein the claims were rejected on the basis of the prior art, there is clearly no basis for continuing the withdrawal of these claims from consideration since there is no longer any prior art basis for rejecting claims 1 and 25. Thus, it is self-evident that the special technical feature recited in the allowed claims does indeed define a contribution over the prior art. Accordingly, applicant respectfully requests reconsideration of the restriction requirement and the reopening of prosecution so that claims 2-24 and 26-29 can be examined on their merits in accordance with prescribed procedures.

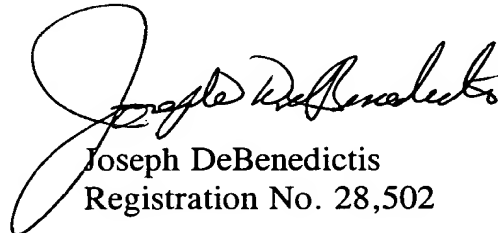
Attached hereto is a marked-up version of changes made to the application by this amendment. The attachment is captioned "Version with Markings to Show Changes Made".

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

1. (Four times amended) A purified *Staphylococcus epidermidis* protein or polypeptide having [substantial] fibrinogen binding activity.

25. (Twice amended) A vaccine composition including [a] the protein according to claim 1.